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a verdict for defendant under given circumstances is properly refused where it presents only a partial view of the evidence.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 398; Dec. Dig. § 174.* 13 Va.-W. Va. Enc. Dig. 627.]

7. Municipal Corporations (§ 705 (12)*)—Street—Actions—Injuries.

In an action for injuries resulting from a collision between the taxicab in which plaintiff was riding and defendant's motor car, the fact that the taxicab was not lighted in accordance with the state statute will not excuse the owner of the motor car, where the taxicab carried lights rendering it visible for nearly a block, and the driver of the motor car was negligent; the failure of the taxicab company to comply with the law not being the proximate cause of the injury.

[Ed. Note.—For other cases, see Municipal Corporations, Cent. Dig. § 1515; Dec. Dig. § 705 (12).* 10 Va.-W. Va. Enc. Dig. 218.]

8. Trial (§ 140 (1)*)—Province of Jury—Credibility of Witnesses.

—The credibility of witnesses is for the jury.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 334; Dec. Dig. § 140 (1).* 13 Va.-W. Va. Enc. Dig. 974.]

Error to Law and Equity Court of City of Richmond.

Action by Thomas Boudar against the Richmond Transfer Company and E. S. Carlton. There was a judgment for plaintiff, and defendants bring error. Affirmed.

R. H. Talley and *S. S. P. Patteson*, both of Richmond, for plaintiffs in error.

Smith & Gordon, of Richmond, for defendant in error.

ADAMS GRAIN & PROVISION CO. *v.* CHESAPEAKE & O.
RY. CO.

March 16, 1916.

[88 S. E. 171.]

1. Landlord and Tenant (§ 150 (1)*)—Duty to Repair—Common-Law Rights.—At common law, in the absence of express covenants to the contrary, the lessor is under no obligation to keep the premises in repair, and the lessee takes them as he finds them.

[Ed. Note.—For other cases, see Landlord and Tenant, Cent. Dig. §§ 536, 538, 544, 546, 548, 556; Dec. Dig. § 150 (1).* 9 Va.-W. Va. Enc. Dig. 159.]

2. Landlord and Tenant (§ 166 (3)*)—Duty to Repair—Common-Law Rights.—Where the landlord leases only a portion of his premises, and through such portion runs a large pipe supplying the remainder of the premises wholly controlled by the landlord with water

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

for fire protection purposes, and through the negligence of the landlord the pipe freezes, bursts, and floods the premises leased, regardless of municipal ordinance as to maintenance of such pipes, the court cannot say as a matter of law that the landlord is not liable, merely because the pipe was located on the premises of the tenant; the failure to repair being, in effect, an act of commission.

[Ed. Note.—For other cases, see *Landlord and Tenant*, Cent. Dig. § 649; Dec. Dig. § 166 (3).* 9 Va.-W. Va. Enc. Dig. 159.]

Error to Law and Equity Court of City of Richmond.

Action by the Adams Grain & Provision Company against the Chesapeake & Ohio Railway Company. To review an order sustaining defendant's demurrer to the evidence, plaintiff brings error. Reversed.

J. Kent Rawley and *John Howard*, both of Richmond, for plaintiff in error.

D. H. & Walter Leake, of Richmond for defendant in error.

DALTON ADDING MACH. CO. *v.* COMMONWEALTH.

March 16, 1916.

[88 S. E. 167.]

1. Commerce (§ 69*)—Subjects of Regulation—Foreign Corporations—License Tax.—A foreign corporation has the right to so limit and conduct its business within the state as to keep it strictly within the accepted meaning of interstate commerce, and when it does so no license tax can be imposed upon it.

[Ed. Note.—For other cases, see *Commerce*, Cent. Dig. §§ 100, 113-119; Dec. Dig. § 69.* 7 Va.-W. Va. Enc. Dig. 867.]

2. Commerce (§ 40 (2)*)—Subjects of Regulation—Sales by Agent—"Interstate Commerce."—Where an agent of a foreign corporation exhibits a sample machine to a customer, and on receiving an order addressed to the home office, satisfactory to the company a machine is shipped from the factory, either to the customer or to the agent within the state to be delivered to the customer, the business is strictly interstate commerce and the state can impose no condition, license tax, or any other burden whatever upon such business.

[Ed. Note.—For other cases, see *Commerce*, Cent. Dig. §§ 29, 30; Dec. Dig. § 40 (2).* 7 Va.-W. Va. Enc. Dig. 875.

For other definitions, see *Words and Phrases*, First and Second Series, *Interstate Commerce*.]

3. Commerce (§ 16*)—Subjects of Regulation—Nature of Transaction—"Interstate Commerce."—The character of business as inter-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.